

(2021) 11 DEL CK 0189

In the Delhi High Court

Case No : Civil Writ Petition No. 13473 Of 2021, Civil Miscellaneous No. 42481 Of 2021

944551468 H/C Dilbag Singh

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 29-11-2021

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 48(a), 48A(4)
Border Security Force Rules, 1969 — Rule 5, 30

Citation : (2021) 11 DEL CK 0189

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Dr.Janak Raj Rana, JPN Shahi, Hemendra Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

1. Present writ petition has been filed challenging the order dated 6th October, 2021 vide which the Petitioner was denied voluntary retirement by the competent authority on the ground that he is under order of posting to 49 Bn BSF. The competent authority also directed that the Petitioner may submit his notice of voluntary retirement at his new place of posting if he intends to proceed on voluntary retirement from service.

2. Learned Counsel for the Petitioner states that the Petitioner, a Head Constable with the BSF, submitted his voluntary retirement notice to the Commandant 25 Bn, BSF under Rule 48 (a) GID (i) of the CCS Pension Rules, 1972 and the same was accepted by the competent authority under Rule 5 read with Rule 30 of the BSF Rules, 1969 vide order dated 5th October, 2020. He states that as per this order the Petitioner was supposed to be struck off from the rolls from 1st January, 2021. He states that this order was cancelled vide order dated 21st December, 2020 upon the request of the Petitioner as he had sustained an injury on his left shoulder.

3. He further states that the Petitioner sought to apply for voluntary retirement again and to extend his date of discharge to 31st October, 2021. He contends that competent authority vide the impugned order refused to grant voluntary retirement under Sub-rule 4 of Rule 48 A of the CCS Pension Rules and the Petitioner has been asked to submit his application to his new unit, which is completely arbitrary.

4. Learned Counsel for the Petitioner states that voluntary retirement can be denied only if the interest of service so demands. He states that the Petitioner has served in the BSF for 27 years with utmost diligence and devotion and there is no reason to deny him voluntary retirement. He states that the Petitioner is the sole caretaker of his 72 years old ailing mother and depriving him of voluntary retirement will prevent him from performing his duties towards his mother.

5. Issue notice. Mr.J.P.N. Shahi, Advocate accepts notice on behalf of the Respondents.

6. This Court is of the view that by way of the impugned order dated 06th October, 2021, the Petitioner has only been directed to submit his notice of voluntary retirement at his new place of posting. Since the Petitioner has been transferred from 25 Bn, BSF to 49 Bn, BSF and must have been struck off from the record of 25 Bn, BSF, his prayer for voluntary retirement can only be considered by way of his new unit i.e. 49 Bn, BSF.

7. Consequently, the present writ petition along with pending application is disposed of with a direction to the Petitioner to apply afresh for voluntary retirement at his new place of posting i.e. 49 Bn, BSF. In the event, such an application is filed, the same shall be decided by the Respondents within eight weeks by way of a reasoned order in accordance with law.

8. With the aforesaid directions, the present writ petition along with pending application is disposed of. This Court clarifies that it has not commented on the merit of the controversy. The rights and contentions of all the parties are left open.